

Senate Bill No. 898

Passed the Senate August 30, 2002

Secretary of the Senate

Passed the Assembly August 27, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER _____

An act to amend and repeal Section 1789.33 of, and to amend, repeal, and add Sections 1789.31 and 1789.35 of, the Civil Code, to amend Section 25604 of the Corporations Code, and to amend, repeal, and add Section 22050 of, and to add Division 10 (commencing with Section 23000) to, the Financial Code, relating to deferred deposit transactions.

LEGISLATIVE COUNSEL'S DIGEST

SB 898, Perata. Check cashers: deferred deposit transactions.

Existing law provides for regulation by the Department of Corporations of finance lenders engaged in the business of making consumer or commercial loans. Existing law requires every owner of a check casher's business to obtain a permit from the Department of Justice.

This bill would enact the California Deferred Deposit Transaction Law, which except for specified provisions would become operative March 1, 2004, to provide for specific regulation of persons engaged in the business of making or negotiating deferred deposit transactions, which are transactions in which the lender defers depositing a consumer's personal check until a specific date pursuant to a written agreement. The bill would provide for the licensing of those persons by the Commissioner of Corporations and for the charging of unspecified fees. The bill would impose various duties on a person engaged in the business of making or negotiating deferred deposit transactions, and would specify the rights of a consumer in that regard. The bill would enact certain transition provisions relative to the transfer of responsibilities from the Department of Justice to the Department of Corporations. The bill would exempt persons engaged in the business of making or negotiating deferred deposits under the bill from the usury limitation in Section 1 of Article XV of the California Constitution. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program by creating new crimes. The bill would make related changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the



state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature in enacting this legislation to provide greater regulatory oversight of the deferred deposit transaction industry. It is the further intent of the Legislature to guarantee that consumers have the disclosures necessary to make informed decisions regarding deferred deposit transactions and to gather the information necessary to inform future legislative activity. Future legislative activity may include, but is not limited to, changes in the fees charged to consumers, specifications regarding the length of time for deferred deposit transactions, maximum amount provided to consumers and the implementation of an installment product in lieu of a deferred deposit transaction.

(b) In enacting this legislation it is the intent of the Legislature that all persons except those who have been exempted from the definition of “licensee” contained in this division, who are engaged in the business of deferred deposit transactions including, but not limited to, brokers and agents of financial institutions, are subject to all provisions of this division.

SEC. 2. Section 1789.31 of the Civil Code is amended to read:

1789.31. (a) As used in this title, a “check casher” means a person or entity that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. “Check casher” does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. “Check casher” also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks or issues money orders for a minimum flat fee not exceeding two dollars (\$2) as a service to its customers that is incidental to its main purpose or business.



(b) As used in this title, “deferred deposit” means a transaction whereby the check casher refrains from depositing a personal check written by a customer until a specific date, pursuant to a written agreement, as provided in Section 1789.33.

(c) This section shall become inoperative on March 1, 2004, and as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 1789.31 is added to the Civil Code, to read:

1789.31. (a) As used in this title, a “check casher” means a person or entity that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. “Check casher” does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. “Check casher” also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks or issues money orders for a fee not exceeding two dollars (\$2) as a service to its customers that is incidental to its main purpose or business.

(b) This section shall become operative March 1, 2004.

SEC. 4. Section 1789.33 of the Civil Code is amended to read:

1789.33. (a) A check casher may defer the deposit of a personal check written by a customer for up to 30 days, pursuant to the provisions of this section. The face amount of the check shall not exceed three hundred dollars (\$300). Each deferred deposit shall be made pursuant to a written agreement that has been signed by the customer and by the check casher or an authorized representative of the check casher. The written agreement shall contain a statement of the total amount of any fees charged for the deferred deposit, expressed both in United States currency and as an annual percentage rate (APR). The written agreement shall authorize the check casher to defer deposit of the personal check until a specific date not later than 30 days from the date the written agreement was signed and executed. The written agreement shall not permit the check casher to accept collateral.

(b) A customer who enters into a deferred deposit agreement and offers a personal check to a check casher pursuant to that agreement shall not be subject to any criminal penalty for the failure to comply with the terms of that agreement.



(c) This section shall become inoperative on March 1, 2004, and as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 1789.35 of the Civil Code is amended to read:

1789.35. (a) A check casher shall not charge a fee for cashing a payroll check or government check in excess of 3 percent if identification is provided by the customer, or 3.5 percent without the provision of identification, of the face amount of the check, or three dollars (\$3), whichever is greater. Identification, for purposes of this section, is limited to a California driver's license, a California identification card, or a valid United States military identification card.

(b) A check casher may charge a fee of no more than ten dollars (\$10) to set up an initial account and issue an optional identification card for providing check cashing services. A replacement optional identification card may be issued at a cost not to exceed five dollars (\$5).

(c) A check casher shall provide a receipt to the customer for each transaction.

(d) Subject to the limitations of Section 1789.33, a check casher may charge a fee for cashing a personal check, as posted pursuant to Section 1789.30, for immediate deposit in an amount not to exceed 12 percent of the face value of the check or for deferred deposit in an amount not to exceed 15 percent of the face value of the check.

(e) A check casher shall not enter into an agreement for a deferred deposit with a customer during the period of time that an earlier written agreement for a deferred deposit for the same customer is in effect.

(f) A check casher who enters into a deferred deposit agreement and accepts a check passed on insufficient funds, or any assignee of that check casher, shall not be entitled to recover damages in any action brought pursuant to, or governed by, Section 1719.

(g) For a transaction pursuant to Section 1789.33, a fee not to exceed fifteen dollars (\$15) may be charged for the return of a dishonored check by a depository institution. The fee may be collected by a check casher who holds a valid permit issued pursuant to Section 1789.37, when acting under the authority of that permit.



(h) No amount in excess of the amounts authorized by this section shall be directly or indirectly charged by a check casher pursuant to a deferred deposit agreement.

(i) Any person who violates any provision of this section shall be liable for a civil penalty not to exceed two thousand dollars (\$2,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General in any court of competent jurisdiction. Any action brought pursuant to this subdivision shall be commenced within four years of the date on which the act or transaction upon which the action is based occurred.

(j) A willful violation of this section is a misdemeanor.

(k) Any person who is injured by any violation of this section may bring an action for the recovery of damages, an equity proceeding to restrain and enjoin those violations, or both. The amount awarded may be up to three times the damages actually incurred, but in no event less than the amount paid by the aggrieved consumer to a person subject to this section. If the plaintiff prevails, the plaintiff shall be awarded reasonable attorney's fees and costs. If a court determines by clear and convincing evidence that a breach or violation was willful, the court, in its discretion, may award punitive damages in addition to the amounts set forth above.

(l) This section shall become inoperative on March 1, 2004, and as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 1789.35 is added to the Civil Code, to read:

1789.35. (a) A check casher shall not charge a fee for cashing a payroll check or government check in excess of 3 percent if identification is provided by the customer, or 3.5 percent without the provision of identification, of the face amount of the check, or three dollars (\$3), whichever is greater. Identification, for purposes of this section, is limited to a California driver's license, a California identification card, or a valid United States military identification card.

(b) A check casher may charge a fee of no more than ten dollars (\$10) to set up an initial account and issue an optional identification card for providing check cashing services. A



replacement optional identification card may be issued at a cost not to exceed five dollars (\$5).

(c) A check casher shall provide a receipt to the customer for each transaction.

(d) A check casher may charge a fee for cashing a personal check, as posted pursuant to Section 1789.30, for immediate deposit in an amount not to exceed 12 percent of the face value of the check.

(e) Any person who violates any provision of this section shall be liable for a civil penalty not to exceed two thousand dollars (\$2,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General in any court of competent jurisdiction. Any action brought pursuant to this subdivision shall be commenced within four years of the date on which the act or transaction upon which the action is based occurred.

(f) A willful violation of this section is a misdemeanor.

(g) Any person who is injured by any violation of this section may bring an action for the recovery of damages, an equity proceeding to restrain and enjoin those violations, or both. The amount awarded may be up to three times the damages actually incurred, but in no event less than the amount paid by the aggrieved consumer to a person subject to this section. If the plaintiff prevails, the plaintiff shall be awarded reasonable attorney's fees and costs. If a court determines by clear and convincing evidence that a breach or violation was willful, the court, in its discretion, may award punitive damages in addition to the amounts set forth above.

(h) This section shall become operative March 1, 2004.

SEC. 7. Section 25604 of the Corporations Code is amended to read:

25604. The administration and enforcement of, and the education of the public relative to, the laws and programs of the Department of Corporations shall be supported from the State Corporations Fund. Funds appropriated from the State Corporations Fund and made available for expenditure for any law or program of the department may come from fees collected from the following:

(a) Section 25608, except for fees collected pursuant to subdivisions (o) to (r), inclusive, of Section 25608.



(b) Section 25608.1.

SEC. 8. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, insurance premium finance agencies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.

(c) This division does not apply to a college or university making a loan for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.

(d) This division does not apply to a check casher who holds a valid permit issued pursuant to Section 1789.37 of the Civil Code when acting under the authority of that permit.

(e) This division does not apply to any person who makes no more than one loan in a 12-month period as long as that loan is a commercial loan as defined in Section 22502.

(f) This division does not apply to any public corporation as defined in Section 67510 of the Government Code, any public entity other than the state as defined in Section 811.2 of the Government Code, or any agency of any one or more of the foregoing, when making any loan so long as the public corporation, public entity, or agency of any one or more of the foregoing complies with all applicable federal and state laws and regulations.

(g) This section shall become inoperative on March 1, 2004, and as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 22050 is added to the Financial Code, to read:

22050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, insurance premium finance agencies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.



(b) This division does not apply to a check casher who holds a valid permit issued pursuant to Section 1789.37 of the Civil Code when acting under the authority of that permit, and shall not apply to a person holding a valid license issued pursuant to Section 23005 of the Financial Code when acting under the authority of that license.

(c) This division does not apply to a college or university making a loan for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.

(d) This division does not apply to a broker-dealer acting pursuant to a certificate then in effect and issued pursuant to Section 25211 of the Corporations Code.

(e) This division does not apply to any person who makes no more than one loan in a 12-month period as long as that loan is a commercial loan as defined in Section 22502.

(f) This division does not apply to any public corporation as defined in Section 67510 of the Government Code, any public entity other than the state as defined in Section 811.2 of the Government Code, or any agency of any one or more of the foregoing, when making any loan so long as the public corporation, public entity, or agency of any one or more of the foregoing complies with all applicable federal and state laws and regulations.

(g) This section shall become operative March 1, 2004.

SEC. 10. Division 10 (commencing with Section 23000) is added to the Financial Code, to read:

DIVISION 10. CALIFORNIA DEFERRED DEPOSIT TRANSACTION LAW

CHAPTER 1. GENERAL PROVISIONS

Article 1. Construction and Definitions

23000. This division shall be known and may be cited as the “California Deferred Deposit Transaction Law.”

23001. As used in this division, the following terms have the following meanings:

(a) “Deferred deposit transaction” means a transaction whereby a person defers depositing a customer’s personal check



until a specific date, pursuant to a written agreement, as provided in Section 23035.

(b) “Commissioner” means the Commissioner of Corporations.

(c) “Department” means the Department of Corporations.

(d) “Licensee” means any person who offers, originates, or makes a deferred deposit transaction, who arranges a deferred deposit transaction for a deferred deposit originator, who acts as an agent for a deferred deposit originator, or who assists a deferred deposit originator in the origination of a deferred deposit transaction. However, “licensee” does not include a state or federally chartered bank, thrift, savings association, or industrial loan company. “Licensee” also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks or issues money orders for a minimum fee not exceeding two dollars (\$2) as a service to its customers that is incidental to its main purpose or business. “Licensee” also does not include an employee regularly employed by a licensee at the licensee’s place of business. An employee, when acting under the scope of the employee’s employment, shall be exempt from any other law from which the employee’s employer is exempt.

(e) “Person” means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government entity, or a political subdivision of a government entity.

(f) “Deferred deposit originator” means a person who offers, originates, or makes a deferred deposit transaction.

Article 2. Licensing and Exemptions

23005. (a) No person shall offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction without first obtaining a license from the commissioner and complying with the provisions of this division. The requirements of this subdivision shall not apply to persons or entities that are excluded from the



definition of “licensee” as set forth in Section 23001. Nothing in this division shall be construed to require the commissioner to create separate classes of licenses.

(b) An application for a license under this division shall be in the form and contain the information that the commissioner may by rule require and shall be filed upon payment of the fee specified in Section 23006.

(c) A licensee with one or more licensed locations seeking an additional location license may file a short form license application as may be established by the commissioner pursuant to subdivision (b) of this section.

23006. At the time of filing the application, the applicant shall pay to the commissioner the sum of one hundred dollars (\$100) as a fee for investigating the application, the sum of two hundred dollars (\$200) as an application fee, and the cost of fingerprint processing. The investigation fee and application fee are not refundable if an application is denied or withdrawn.

23007. The applicant shall file with the application financial statements prepared in accordance with generally accepted accounting principles and acceptable to the commissioner that indicate a net worth of at least twenty-five thousand dollars (\$25,000). A licensee, regardless of the number of licensed locations, shall maintain a net worth of at least twenty-five thousand dollars (\$25,000) at all times.

23008. Upon the filing of an application pursuant to Section 23005 and the payment of fees pursuant to Section 23006, the commissioner shall investigate the applicant, and its general partners and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests if the applicant is a partnership. If the applicant is a corporation, trust, or association, including an unincorporated organization, the commissioner shall investigate its officers, directors, and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities. If the commissioner determines that the applicant has satisfied this division and does not find facts constituting reasons for denial under Section 23011, the commissioner shall issue and deliver a license to the applicant.

23009. The license shall state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its



incorporation or organization, and the address of the licensee's principal business location. On the approval and licensing of a location pursuant to Section 23008, the commissioner shall issue an original license endorsed to show the address of the authorized location.

23010. The commissioner may by regulation require licensees to file, at the times that the commissioner may specify, the information that the commissioner may reasonably require regarding any changes in the information provided in any application filed pursuant to this division.

23011. (a) Upon reasonable notice and the opportunity to be heard, the commissioner may deny the application for any of the following reasons:

(1) Any false statement of material fact has been made in the application.

(2) Any officer, director, general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years (A) been convicted of or pleaded nolo contendere to a crime, or (B) committed any act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.

(3) The applicant or any officer, director, or general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

(b) The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in the application within 90 days of the date of the notification.

(c) The commissioner shall, within 60 days from the filing of a full and complete application for a license and the payment of required fees, either issue a license or file a statement of issues prepared in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

23012. The proceedings for denial of a license shall be conducted in accordance with Chapter 5 (commencing with



Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner has all the powers granted therein.

23013. (a) A licensee shall maintain a surety bond in accordance with this subdivision in the amount of twenty-five thousand dollars (\$25,000). The bond shall be payable to the commissioner and issued by an insurer authorized to do business in this state. A copy of the bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner for review and approval within 10 days of execution. For licensees with multiple licensed locations, only one surety bond in the amount of twenty-five thousand dollars (\$25,000) is required. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by consumers as the result of a licensee's noncompliance with the requirements of this division.

(b) When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond. Immediately upon recovery of any action on the bond, the licensee shall file a new bond. Failure to file a new bond within 10 days of the recovery on a bond, or within 10 days after notification by the commissioner that a new bond is required, constitutes sufficient grounds for the suspension or revocation of the license.

23014. In any proceeding under this division, the burden of proving an exemption or exception is upon the person claiming it.

Article 3. Administration and Operations

23015. The commissioner may make general rules and regulations and specific rulings, demands, and findings for the enforcement of this division, in addition to, and within the general purposes of, this division.

23016. (a) Each licensee shall pay to the commissioner its pro rata share of all costs and expenses reasonably incurred in the administration of this division, as estimated by the commissioner, for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The assessment will be based on the number of locations.



(b) On or before the 20th day of May in each year, the commissioner shall notify each licensee by mail of the amount assessed and levied against it and that amount shall be paid within 30 days thereafter. If payment is not made within 30 days, the commissioner may assess and collect a penalty, in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(c) If a licensee fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the licensee. If, after an order is made, a request for hearing is filed in writing within 30 days, and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a licensee shall not conduct business pursuant to this division except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

23017. All money paid or collected under this division shall be deposited in the State Treasury to the credit of the State Corporations Fund. The administration of this division shall be supported out of the State Corporations Fund upon appropriation by the Legislature.

23018. (a) A license, along with any currently effective order of the commissioner approving a different name pursuant to Section 23023, shall be conspicuously posted in the place of business authorized by the licensee.

(b) A license is not transferable or assignable. A license issued to a partnership or limited partnership is not transferred or assigned within the meaning of this section by the death, withdrawal, or admission of a partner, general partner, or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued.

23019. Every licensee shall post a complete, detailed, and unambiguous schedule of fees. The information required by this section shall be clear, legible, and in letters not less than one-half inch in height. The information shall be posted in a conspicuous location in the unobstructed view of the public within the licensee's location.



23020. A licensee shall maintain only one place of business under an original or amended license issued pursuant to Section 23008. The commissioner may issue more than one license to the same licensee upon compliance with all the provisions of this division governing an original issuance of a license.

23021. (a) If a licensee desires to change its place of business to a street address other than that designated in its license, the licensee shall give written notice to the commissioner at least 10 days prior to the change. The commissioner shall then provide written approval of the change and the date of the approval. A new application shall not be required for a change in the address of an existing business location previously licensed pursuant to this division.

(b) If notice is not given at least 10 days prior to the change, as required by subdivision (a), the commissioner may assess a civil penalty on the licensee not to exceed five hundred dollars (\$500).

23023. No licensee shall transact the business licensed or make any transaction provided for by this division under any other name or at any other place of business than that named in the license except pursuant to a currently effective written order of the commissioner authorizing the other name or other place of business.

23024. Each licensee shall keep and use books, accounts, and records that will enable the commissioner to determine if the licensee is complying with the provisions of this division and with the rules and regulations promulgated by the commissioner. Each licensee shall maintain any other records as required by the commissioner. The commissioner or a designee of the commissioner may examine those records at any reasonable time. Upon the request of the commissioner, a licensee shall file an authorization for disclosure of financial records of the licensed businesses pursuant to Section 7473 of the Government Code. All records shall be kept for two years following the last entry on a deferred deposit transaction and shall enable an examiner to review the recordkeeping and reconcile each consumer deferred deposit transaction with documentation maintained in the consumer's deferred deposit transaction file records.

23025. The department shall maintain a toll-free telephone number for deferred deposit transaction customers to make



complaints and express concerns regarding the product or a specific licensee.

23026. On or before March 15 of each year, beginning March 2005, each licensee shall file an annual report with the commissioner pursuant to procedures that the commissioner shall establish. The licensee's annual report shall be kept confidential pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and any regulations adopted thereunder. The annual consolidated report shall be prepared by the commissioner and made available to the public. For the previous calendar year, these reports shall include the following:

(a) The total number and dollar amount of deferred deposit transactions made by the licensee.

(b) The total number of individual customers who entered into deferred deposit transactions.

(c) The minimum, maximum, and average amount of deferred deposit transactions.

(d) The average annual percentage rate of deferred deposits.

(e) The average number of days of deferred deposit transactions.

(f) The total number and dollar amount of returned checks.

(g) The total number and dollar amount of checks recovered.

(h) The total number and dollar amount of checks charged off.

23027. (a) No licensee shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed or broadcast, in any manner, any statement or representation with regard to the business subject to the provisions of this division, including the rates, terms, or conditions for making or negotiating deferred deposit transactions, that is false, misleading, or deceptive, or that omits material information that is necessary to make the statements not false, misleading, or deceptive.

(b) No licensee shall place an advertisement disseminated primarily in this state for a deferred deposit transaction unless the licensee discloses in the printed text of the advertisement, or the oral text in the case of a radio or television advertisement, that the licensee is licensed by the department pursuant to this division.

(c) The commissioner may require that rates of charges or fees, if stated by the licensee, be stated fully and clearly in the manner



that the commissioner deems necessary to give adequate information to, or to prevent misunderstanding by, prospective customers.

(d) No advertising copy shall be used after its use has been disapproved by the commissioner and the licensee is notified in writing of the disapproval.

(e) The commissioner may require licensees to maintain a file of all advertising copy for a period of 90 days from the date of its use. The file shall be available to the commissioner upon request.

CHAPTER 2. DEFERRED DEPOSIT TRANSACTIONS

23035. (a) A licensee may defer the deposit of a customer's personal check for up to 31 days, pursuant to the provisions of this section. The face amount of the check shall not exceed three hundred dollars (\$300). Each deferred deposit transaction shall be made pursuant to a written agreement as described in subdivision (e) that has been signed by the customer and by the licensee or an authorized representative of the licensee.

(b) A customer who enters into a deferred deposit transaction and offers a personal check to a licensee pursuant to an agreement shall not be subject to any criminal penalty for the failure to comply with the terms of that agreement.

(c) Before entering into a deferred deposit transaction, licensees shall distribute to customers a notice that shall include, but not be limited to, the following:

(1) Information about charges for deferred deposit transactions.

(2) That if the customer's check is returned unpaid, the customer may be charged an additional fee of up to fifteen dollars (\$15).

(3) That the customer cannot be prosecuted in a criminal action in conjunction with a deferred deposit transaction for a returned check or be threatened with prosecution.

(4) The department's toll-free telephone number for receiving calls regarding customer complaints and concerns.

(5) That the licensee may not accept any collateral in conjunction with a deferred deposit transaction.

(6) That the check is being negotiated as part of a deferred deposit transaction made pursuant to Section 23035 of the



Financial Code and is not subject to the provisions of Section 1719 of the Civil Code. No customer may be required to pay treble damages if this check does not clear.

(d) The following notices shall be clearly and conspicuously posted in the unobstructed view of the public by all licensees in each location of a business providing deferred deposit transactions in letters not less than one-half inch in height:

(1) The licensee cannot use the criminal process against a consumer to collect any deferred deposit transaction.

(2) The schedule of all charges and fees to be charged on those deferred deposit transactions with an example of all charges and fees that would be charged on at least a one-hundred-dollar (\$100) and a two-hundred-dollar (\$200) deferred deposit transaction, payable in 14 days and 30 days, respectively, giving the corresponding annual percentage rate. The information may be provided in a chart as follows:

Amount Provided	Fee	Amount of Check	14-day APR	30-day APR
\$100	XX	XXX	XXX	XXX
\$200	XX	XXX	XXX	XXX

(e) An agreement to enter into a deferred deposit transaction shall be in writing and shall be provided by the licensee to the customer. The written agreement shall authorize the licensee to defer deposit of the personal check, shall be signed by the customer, and shall include all of the following:

(1) A full disclosure of the total amount of any fees charged for the deferred deposit transaction, expressed both in United States currency and as an APR as required under the Federal Truth In Lending Act and its regulations.

(2) A clear description of the customer's payment obligations as required under the Federal Truth In Lending Act and its regulations.

(3) The name, address, and telephone number of the licensee.

(4) The customer's name and address.

(5) The date to which deposit of check has been deferred (due date).



(6) The payment plan, or extension, if applicable as allowed under subdivision (c) of Section 23036.

(7) An itemization of the amount financed as required under the Federal Truth In Lending Act and its regulations.

(8) Disclosure of any returned check charges.

(9) That the customer cannot be prosecuted or threatened with prosecution to collect.

(10) That the licensee cannot accept collateral in connection with the transaction.

(11) That the licensee cannot make a deferred deposit transaction contingent on the purchase of another product or service.

(12) Signature space for the customer and signature of the licensee or authorized representative of the licensee and date of the transaction.

(13) Any other information that the commissioner shall deem necessary by regulation.

(f) The notice required by subdivision (c) shall be written and available in the same language principally used in any oral discussions or negotiations leading to execution of the deferred deposit agreement and shall be in at least 10-point type.

(g) The written agreement required by subdivision (e) shall be written in the same language principally used in any oral discussions or negotiations leading to execution of the deferred deposit agreement; shall not be vague, unclear, or misleading and shall be in at least 10-point type.

(h) Under no circumstances shall a deferred deposit transaction agreement include any of the following:

(1) A hold harmless clause.

(2) A confession of judgment clause or power of attorney.

(3) Any assignment of or order for payment of wages or other compensation for services.

(4) Any acceleration provision.

(5) Any unconscionable provision.

(i) If the licensee sells or otherwise transfers the debt at a later date, the licensee shall clearly disclose in a written agreement that any debt or checks held or transferred pursuant to a deferred deposit transaction made pursuant to Section 23035 are not subject to the provisions of Section 1719 of the Civil Code and that no



customer may be required to pay treble damages if the check or checks are dishonored.

23036. (a) A fee for a deferred deposit transaction shall not exceed 15 percent of the face amount of the check.

(b) A licensee may allow an extension of time, or a payment plan, for repayment of an existing deferred deposit transaction but may not charge any additional fee or charge of any kind in conjunction with the extension or payment plan. A licensee that complies with the provisions of this subdivision shall not be deemed to be in violation of subdivision (g) of Section 23037.

(c) A licensee shall not enter into an agreement for a deferred deposit transaction with a customer during the period of time that an earlier written agreement for a deferred deposit transaction for the same customer is in effect.

(d) A licensee who enters into a deferred deposit transaction agreement, or any assignee of that licensee, shall not be entitled to recover damages for that transaction in any action brought pursuant to, or governed by, Section 1719 of the Civil Code.

(e) A fee not to exceed fifteen dollars (\$15) may be charged for the return of a dishonored check by a depository institution in a deferred deposit transaction. A single fee charged pursuant to this subdivision is the exclusive charge for a dishonored check. No fee may be added for late payment.

(f) No amount in excess of the amounts authorized by this section shall be directly or indirectly charged by a licensee pursuant to a deferred deposit transaction.

(g) A licensee shall be subject to the provisions of Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code.

23037. In no case shall a licensee do any of the following:

(a) Accept or use the same check for a subsequent transaction, or permit a customer to pay off all or a portion of one deferred deposit transaction with the proceeds of another.

(b) Accept any collateral for a deferred deposit transaction.

(c) Make any deferred deposit transaction contingent on the purchase of insurance or any other goods or services.

(d) Enter into a deferred deposit transaction with a person lacking the capacity to contract.

(e) Alter the date or any other information on a check.



(f) Engage in any unfair, unlawful, or deceptive conduct, or make any statement that is likely to mislead in connection with the business of deferred deposit transactions.

(g) Accept more than one check for a single deferred deposit transaction.

(h) Take any check, instrument, or form in which blanks are left to be filled in after execution.

(i) Offer, arrange, act as an agent for, or assist a deferred deposit originator in any way in the making of a deferred deposit transaction unless the deferred deposit originator complies with all applicable federal and state laws and regulations, including the provisions of this division.

(1) The prohibition specified in this subdivision does not apply to the arranger, agent, or assistant to a state or federally chartered bank, thrift, savings association, or industrial loan company where the state or federally chartered bank, thrift, savings association, or industrial loan company satisfies all of the following:

(A) It initially advances the loan proceeds to the customer.

(B) It does not sell, assign, or transfer a preponderant economic interest in the deferred deposit transaction to the arranger, agent, or assistant, or an affiliate or subsidiary of the state or federally chartered bank, thrift, savings association, or industrial loan company, unless selling, assigning, or transferring a preponderant economic interest is expressly permitted by the primary regulator of the state or federally chartered bank, thrift, savings association, or industrial loan company.

(C) It develops the deferred deposit transaction product or products on its own.

(2) If a licensee offers, arranges, acts as an agent for, or assists a state or federally chartered bank, thrift, savings association, or industrial loan company in any way in the making of a deferred deposit transaction and the state or federally chartered bank, thrift, savings association, or industrial loan company meets the standards set forth in paragraph (1), the licensee shall comply with all other provisions in this division to the extent they are not preempted by other state and federal laws.



CHAPTER 3. ENFORCEMENT

Article 1. Administrative Actions

23045. (a) Licenses issued under this division remain in effect until they are surrendered, revoked, or suspended.

(b) The surrender of a license becomes effective 30 days after receipt of an application to surrender the license or within a shorter period of time that the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the surrender is instituted within 30 days after the application is filed. If a proceeding is pending or instituted, the surrender of a license becomes effective at the time and upon the conditions that the commissioner determines.

(c) The power of investigation and examination by the commissioner is not terminated by the surrender, suspension, or revocation of any license issued by the commissioner.

(d) Whenever the commissioner deems it necessary for the general welfare of the public, the commissioner shall have continuous authority to exercise the powers set forth in this division whether or not an application for a license has been filed with the commissioner, any license has been issued, or if issued, has been surrendered, suspended, or revoked.

(e) The commissioner may, upon three days' notice and a hearing, suspend any license for a period not exceeding 30 days, pending investigation, where the commissioner believes that a person subject to this division is conducting business in an unsafe or injurious manner.

(f) Any licensee may surrender any license by delivering to the commissioner written notice that the licensee surrenders that license pursuant to subdivision (b). The surrender of the license does not affect the licensee's civil or criminal liability for acts committed prior to the surrender of the license.

23046. (a) For the purpose of discovering violations of this division or securing information required by the commissioner in the administration and enforcement of this division, the commissioner may at any time, but not less than once every two years, investigate the business of deferred deposits, and examine the books, accounts, records, and files used in the business of



deferred deposit transactions, of every person engaged in the business of deferred deposit transactions, whether the person acts or claims to act as a principal or an agent, or under or without the authority of this division. For the purpose of examination, the commissioner and the commissioner's representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons.

(b) The cost of each examination of a licensee or a person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of an examination, the commissioner may use the estimated average hourly cost for all persons performing examinations of licensees or other persons subject to this division for the fiscal year.

23047. (a) In making any examination or investigation, the commissioner may, for a reasonable time not to exceed 30 days, take possession of the books, records, accounts, and other papers pertaining to the business. The commissioner may place a keeper in exclusive charge and custody of the books, records, accounts, and other papers in the office or place where they are usually kept. During possession by the keeper, no person shall remove or attempt to remove any of the books, accounts, papers, records, files, safes, and vaults, or any part thereof, except in compliance with a court order or written consent of the commissioner.

(b) The officers, employees, partners, directors, and stockholders may inspect and examine the books, accounts, papers, records, files, safes, and vaults while they are in the custody of the commissioner. Employees may make entries in these documents reflecting current operations or transactions.

23048. (a) The commissioner may require the attendance of witnesses and examine under oath all persons whose testimony the commissioner requires relative to transactions or business regulated by this division or to the subject matter of any examination, investigation, or hearing.

(b) The commissioner may require the production for examination in this state of all books, records, and supporting data used by the licensee in the preparation of reports to the commissioner. The books, records, and supporting data shall be



made available for examination by the commissioner in this state within 10 days after a written demand.

23049. After an examination, investigation, or hearing under this division, if the commissioner deems it of public interest or advantage, the commissioner may certify a record to the proper prosecuting official of the city, county, or city and county in which the act complained of, examined, or investigated occurred. The data and records shall be kept confidential pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and any regulations adopted thereunder.

23050. Whenever, in the opinion of the commissioner, any person is engaged in the business of deferred deposit transactions, as defined in this division, without a license from the commissioner, or any licensee is violating any provision of this division, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further violating this division. If within 30 days, after the order is served, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded.

23051. (a) Whenever the commissioner believes from evidence satisfactory to the commissioner that any person has violated or is about to violate a provision of this division, or a provision of any order, license, decision, demand, requirement, or any regulation adopted pursuant to this division, the commissioner may, in the commissioner's discretion, bring an action in the name of the people of the State of California against that person to enjoin that person from continuing that violation or doing any act in furtherance of the violation. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and other ancillary relief may be granted as appropriate.

(b) If the commissioner determines that it is in the public interest, the commissioner may include in any action authorized by subdivision (a) a claim for ancillary relief, including, but not limited to, a claim for restitution, disgorgement, or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action. The court shall have jurisdiction to award additional relief.

(c) Any person who violates any provision of this division, or who violates any rule or order adopted pursuant to this division,



shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction.

(d) As applied to the penalties for acts in violation of this division, the remedies provided by this section and by other sections of this division are not exclusive, and may be sought and employed in any combination to enforce the provisions of this division.

23052. The commissioner may suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(a) The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.

(b) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

(c) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

23053. The commissioner may by order summarily suspend or revoke the license of any licensee if that person fails to file the report required by Section 23026 within 10 days after notice by the commissioner that the report is due and not filed. If, after an order is made, a request for hearing is filed in writing within 30 days and the hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date.

23054. The revocation, suspension, expiration, or surrender of any license does not impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

23055. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all cases the commissioner has all the powers granted therein.

23056. Every order, decision, license, or other official act of the commissioner is subject to judicial review in accordance with law.



23057. On December 1, 2006, the commissioner shall report to the Governor and the Legislature on its implementation of this division. The report shall include, at a minimum, information regarding the demand for deferred deposit transactions, the growth and trends in the industry, common practices for conducting the business of deferred deposit transactions and any other information the commissioner deems necessary to inform the Governor and the Legislature regarding potential legislation that may be necessary to protect the people of the State of California. The commissioner's recommendations for future action may include, but are not limited to, changes in the fees charged to consumers, specifications regarding the length of time for deferred deposit transactions, maximum amount provided to consumers and the implementation of an installment loan product in lieu of a deferred deposit transaction as described in this division.

As the commissioner conducts this study, licensees shall be required to supply all information the commissioner deems necessary. The study shall be made public and may not include any proprietary information.

23058. (a) If, upon inspection, examination or investigation, based upon a complaint or otherwise, the department has cause to believe that a person is engaged in the business of deferred deposit transactions without a license, or a licensee or person is violating any provision of this division or any rule or order thereunder, the department may issue a citation to that person in writing, describing with particularity the basis of the citation. Each citation may contain an order to desist and refrain and an assessment of an administrative penalty not to exceed two thousand five hundred dollars (\$2,500). All penalties collected under this section shall be deposited in the State Corporations Fund.

(b) The sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) If within 30 days from the receipt of the citation of the person cited fails to notify the department that the person intends to request a hearing as described in subdivision (d), the citation shall be deemed final.

(d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of



Part 1 of Division 3 of Title 2 of the Government Code, and in all states the commissioner has all the powers granted therein.

(e) After the exhaustion of the review procedures provided for in this section, the department may apply to the appropriate superior court for a judgment in the amount of the administrative penalty and order compelling the cited person to comply with the order of the department. The application, which shall include a certified copy of the final order of the department, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

Article 2. Penalties for Misconduct

23060. (a) If any amount other than, or in excess of, the charges or fees permitted by this division is willfully charged, contracted for, or received, a deferred deposit transaction contract shall be void, and no person shall have any right to collect or receive the principal amount provided in the deferred deposit transaction, any charges, or fees in connection with the transaction.

(b) If any provision of this division is willfully violated in the making or collection of a deferred deposit transaction, the deferred deposit transaction contract shall be void, and no person shall have any right to collect or receive any amount provided in the deferred deposit transaction, any charges, or fees in connection with the transaction.

23061. (a) If any amount other than, or in excess of, the charges permitted by this division is charged, contracted for, or received in connection with a deferred deposit transaction, for any reason other than a willful act of the licensee, the licensee shall forfeit all charges and fees on the deferred deposit transaction and may collect or receive only the principal amount of the transaction.

(b) Subdivision (a) shall not apply to an error in computation if (1) the licensee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid that error, and (2) within 60 days of discovering the error the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.



23062. (a) If any provision of this division is violated in the making or collection of a deferred deposit transaction, for any reason other than a willful act of the licensee, the licensee shall forfeit all charges and fees on the deferred deposit and may collect or receive only the principal amount.

(b) Subdivision (a) shall not apply to a violation if (1) the licensee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, and (2) within 30 days of discovering the error the licensee notified the customer of the error and rectified the error by making the appropriate changes in the documents or account and by taking other action necessary to correct the error.

23063. No provision imposing liability under this division, including the provisions of subdivision (a) of Section 23061 and subdivision (a) of Section 23062, shall apply to any act done or omitted in good faith in conformity with any written general rule, regulation, or specific ruling of the commissioner, notwithstanding that after the act or omission has occurred, the written general rule, regulation, or specific ruling is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

Article 3. Civil Damages

23064. Any person who is injured by any violation of this division may bring an action for the recovery of damages, an equity proceeding to restrain and enjoin those violations, or both. The amount awarded may be up to three times the damages actually incurred, but in no event less than the amount paid by the aggrieved consumer to a person subject to this section. If the plaintiff prevails, the plaintiff shall be awarded reasonable attorney's fees and costs. If a court determines by clear and convincing evidence that a breach or violation was willful, the court, in its discretion, may award punitive damages in addition to the amounts set forth above. Upon application, the court may also grant any equitable relief that it deems proper, including, but not limited to, a claim for restitution and disgorgement.



23064.5. The rights, remedies, and penalties established by this division are cumulative to the rights, remedies, or penalties established under other laws. It is not necessary to exhaust administrative remedies in order to pursue the civil remedies provided for in this act.

Article 4. Crimes

23065. Any person, including a partner or officer of an entity that is a licensee, who willfully violates any provision of this division or who willfully violates any rule or order adopted pursuant to this division, shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. However, no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority in Article 1 (commencing with Section 23045).

Article 5. Transition Provisions

23070. (a) The Legislature finds and declares that it is in the public interest for the administration and enforcement of this division to be undertaken by the Department of Corporations.

(b) It is therefore the intent of the Legislature to transfer the existing responsibilities relating to administration and enforcement of check cashers that engage in activities subject to this division from the Department of Justice to the Department of Corporations.

23071. The Commissioner of Corporations and the Department of Corporations shall succeed to, and are vested with, all duties, powers, purposes, responsibilities, and jurisdiction of the Department of Justice as they relate to check cashers who engage in the activities subject to this division.

23072. The Department of Corporations may use the unexpended balance of funds available for use in connection with the performance of duties of the Department of Justice to which the Department of Corporations succeeds pursuant to Section 23071.



23073. All officers and employees of the Department of Justice who, on the operative date of this division, are performing any duty, power, purpose, responsibility, or jurisdiction to which the Department of Corporations succeeds, and who are serving in the civil service, other than as temporary employees or persons in positions exempted from civil service, shall be transferred to the Department of Corporations. The status, position, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the Department of Corporations, pursuant to Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code.

23074. The Department of Corporations shall have possession and control of all records, criminal history information, papers, equipment, supplies, moneys, funds, appropriations, licenses, permits, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the Department of Justice for the performance of the functions transferred to the Department of Corporations pursuant to Section 23071.

Article 6. Miscellaneous

23100. (a) Check cashers that hold a valid permit prior to January 1, 2003, issued pursuant to Section 1789.37 of the Civil Code, and that have been making deferred deposits prior to January 1, 2003, shall do the following prior to engaging in the business of deferred deposits on or after March 1, 2004:

(1) Pay the assessment on or before May 15, 2003, pursuant to the provisions of this division for the 2003-04 fiscal year.

(2) On or before May 15, 2003, submit a license application and pay a license fee pursuant to Article 2 (commencing with Section 23005).

(b) Any person that intends to engage in the business of deferred deposits after March 1, 2004, and that holds a check cashing permit from the Attorney General on or before January 2003 and fails to submit a license application or pay a license fee as provided in this subdivision, shall upon the request of the commissioner and applying for a license forfeit to the people of the state a sum of twenty-five dollars (\$25) for every day or part of a day that the submission or payment is delayed or withheld.



Applications will be processed in the order of the date received by the commissioner.

(c) The commissioner shall issue a license to a licensee under this division upon receiving payment of the assessment for the 2003-04 fiscal year, the license application, and fee and any additional information the commissioner may require in the application to demonstrate compliance with provisions of this division. The amount collected shall be deposited in the State Corporations Fund and shall be subject to appropriation by the Legislature for the 2003-04 fiscal year.

23101. Regulations of the commissioner adopted prior to June 30, 2003, to implement this division shall be adopted as emergency regulations. Upon receipt of the regulations, the Office of Administrative Law shall file the regulations with the Secretary of State for immediate effectiveness.

23102. The deferred deposits made pursuant to a permit issued under Section 1789.37 of the Civil Code prior to March 1, 2004, shall be subject to and enforced to the extent valid under Sections 1789.30 to 1789.37, inclusive, of the Civil Code, as if those sections were not repealed. Any regulation, order, or other action adopted, prescribed, taken, or performed by the Department of Justice or by an officer of that department in connection with deferred deposit transactions made prior to March 1, 2004, shall continue to apply to those transactions. No suit, action, or other proceeding lawfully commenced by or against the Department of Justice or any other officer of the state in relation to deferred deposit transactions made prior to March 1, 2004, shall abate by reason of the transfer of authority concerning deferred deposit transactions to the Department of Corporations pursuant to Section 23071.

23103. It is the intent of the Legislature that this division shall be administered and enforced with sufficient program resources and funding including personnel to examine licensees as often as the commissioner deems necessary and appropriate but at least once every two years, and to authorize enforcement actions that are necessary and appropriate to protect the public. This act should be administered and enforced only to the extent funds are appropriated by the Legislature and made available for this purpose.



23104. Except as provided in this article, the provisions of this division shall become effective on January 1, 2003, and shall become operative on March 1, 2004. However, the commissioner shall have the power and authority to implement the provisions of this division prior to March 1, 2004.

23105. The provisions of this division are severable. If any provision of this division or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

23106. This division creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the California Constitution.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2002

Governor

